

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE**

In re: Nissan North America, Inc. Litigation

Case Nos.: 3:19-cv-00843

3:19-cv-00854

3:22-cv-00098

District Judge William L. Campbell, Jr.
Magistrate Judge Jeffrey S. Frensley

LAKEITA KEMP, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

NISSAN NORTH AMERICA, INC. and
NISSAN MOTOR CO., LTD.

Defendants

BAREDA et al., individually and on behalf
of all others similarly situated,

Plaintiffs,

v.

NISSAN NORTH AMERICA, INC. and
NISSAN MOTOR CO., LTD.

Defendants

**DECLARATION OF BENJAMIN A. GASTEL IN SUPPORT OF PLAINTIFFS’
MOTION TO STRIKE TESTIMONY OF SATORU YAHAGI (ECF NO. 261-25)**

I, Benjamin A. Gastel, state as follows:

1. I am over 21 years of age.
2. I am competent to testify to the matters stated herein.
3. I have personal knowledge of the matters contained herein.
4. Attached hereto as **Exhibit A** is a true and correct copy of Nissan North America, Inc.'s Initial Disclosures Pursuant to Fed. R. Civ. P. 26(a)(1).
5. Attached hereto as **Exhibit B** is a true and correct copy of Nissan North America, Inc.'s Objection and Responses to Plaintiffs' First Set of Interrogatories.
6. Attached hereto as **Exhibit C** is a true and correct copy of Nissan Motor Co., Ltd.'s Objections and Responses to Plaintiffs' First Set of Interrogatories.
7. Attached hereto as **Exhibit D** is a true and correct copy of Nissan Motor Co., Ltd.'s Initial Disclosures Pursuant to Fed. R. Civ. P. 26(a)(1).
8. Attached hereto as **Exhibit E** is a true and correct email exchange between Plaintiffs' counsel and Defendants' counsel dated September 3, 2021 and September 9, 2021.
9. At no point either before or after filing its opposition to Plaintiffs' motion for class certification has Nissan supplemented any of its Interrogatory Responses or Rule 26(a) Disclosures.
10. Plaintiffs began noticing depositions in connection with their forthcoming motion for class certification well over a year ago, in September of 2021. In large part, Plaintiffs noticed depositions based on Nissan's Rule 26 Disclosures and Interrogatory Responses.
11. Counsel for Defendants has informed counsel for Plaintiffs that Mr. Satoru Yahagi is located in Japan.

12. Had Nissan identified Mr. Yahagi as a fact witness in its disclosures, Plaintiffs would have begun steps to depose him last year, when Plaintiffs deposed the fact witnesses Nissan identified in its Disclosures and Interrogatory Responses.

13. Because Mr. Yahagi was not disclosed, there was no perceived need to incur the massive expense of traveling to Japan and hiring a translator to depose him.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 14th day of November, 2022, at Nashville, Tennessee.

/s/ Benjamin A. Gastel
Benjamin A. Gastel

Dated: November 14, 2022

Respectfully submitted,

By: /s/ Benjamin A. Gastel
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CERTIFICATE OF SERVICE

I certify that on November 14, 2022, I electronically filed the foregoing document using the Court's CM/ECF system, and a copy of this filing will be sent electronically to the registered participants as identified on the Notice of Electronic Filing. The following counsel will receive service via the Court's CM/ECF system at the email addresses listed below or by U.S. Mail prepaid postage:

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